IN THE HIGH COURT BOMBAY AT PANAJI GOA

P. I. L. Writ Petition No.: /2019

IN THE MATTER OF ARTICLES 21, 226 & 227 OF THE CONSTITUTION OF INDIA AND RULE 4(E) OF THE BOMBAY HC PIL RULES;

AND

IN THE MATTER OF THE GOA AGRICULTURAL TENANCY ACT AND THE GOA LAND USE ACT 1991;

AND

IN THE MATTER OF PROTECTION OF AGRICULTURAL STATUS OF TENANTED PLOT UNDER SURVEY NO.3/3 AND OTHERS OF PTS NO 161 OF MAPUSA NOW SHOWING AS C1 (COMMERCIAL) IN THE OUTLINE DEVELOPMENT PLAN OF MAPUSA AND OTHER LARGE SCALE TENANCY ACT VIOLATIONS BY BOSHAN DEVELOPERS.

1. The Bodgeshwar Shetkari Sangh,
   through its President, Bodgeshwar,
   Mapusa, Goa 403507.

2. The Tenants Association of Camarcasan Bundh,
   through its Secretary, John Lobo,
   Komarkhazan, Mapusa, Goa 403507.

3. The Goa Foundation
through its Secretary, Dr. Claude Alvares,
and having Regd. Office at
Room No. 7, Above Mapusa Clinic,
Mapusa 403507, Goa
Email id: goafoundation@gmail.com .....Petitioners

v/s

1. The Mamlatdar of Bardez,
Office of the Mamlatdar,
Government Building,
Mapusa 403507 Goa.

2. North Goa Planning and Development Authority
Through its Member Secretary,
Archdiocese Bldg,
Ist Floor, Mala Link Road,
Panaji, Goa-403001

3. Mapusa Municipal Council,
Through its Chief Officer
Near Civil Court, Mapusa, Goa, 403507

4. Town and Country Planning Department
Through its Chief Town Planner,
2nd Floor, Dempo Tower,
Patto Plaza, Panaji-Goa.

5. State of Goa
Through its Chief Secretary
Having office at the Secretariat,
Porvorim, Goa 403521
6. Inspector of Surveys and Land Records.
City Survey, Government Building,
Mapusa 403507 Goa.

7. Boshan Developers Private Limited
Through its Director
Mr. Omkar A. Gaitonde
C 501-502, 5th Floor, Boshan Home,
Opp. Shri Bogdeshwar Temple,
Mapusa, Goa 403507

8. Smt. Udaybala Dwarkanath Joshi
Resident of House No. 129/1.
Madla wada, Sal, Bicholim, Goa

9. Smt. Minal Mangesh Vernekar
Resident of Flat No. F/2, C/4,
Essar Residency, Taligao,
Tiswadi, Goa.

10.Shri Mangesh Yeshwant Vernekar
Resident of Flat No. F/2, C/4,
Essar Residency, Taligao,
Tiswadi, Goa.

11. Smt. Gauri Prakash Shetye,
Resident of House No. 656,
Deolai, Khandola, Post Marcel, Goa.

12. Dr. Prakash Shambu Shetye,
Resident of House No. 656,
Deolai, Khandola, Post Marcel, Goa

13. Smt. Deepa Chandrashekar Mantri,
Resident of Plot No. 261
R.K. Nagar, Near Moll,
Kolhapur, Maharashtra

14. Shri Chandrashekar Vinayak Mantri,
Resident of Plot No. 261
R.K. Nagar, Near Moll,
Kolhapur, Maharashtra

15. Shri Siddharth Dwarkanath Joshi,
Resident of House No. 129/1,
Madla wada, Sal, Bicholim, Goa

16. Smt. Shambhavi S. Joshi
Resident of House No. 129/1,
Madla wada, Sal, Bicholim, Goa

17. Ms. Amita Ramkrishna Pednekar, major,
House no:10, ward no:10,
Near govt primary school,
Khorlim, Mapusa 403507 Goa.

18. Mrs. Chandralekha Ramkrishna Pednekar
alias Sonali Somdutt Natekar, major,
H.No.5/9, Umta wado,
Calangute 403516 Goa.

19. Mr. Somdutt Natekar, major,
H.No.5/9, Umta wado,
Calangute 403516 Goa.

20. Sandhya Santosh Korgaonkar
W/o Santosh Korgaonkar, major,
H.No.359, Tambudki waddo,
Calangute 403516 Goa.

21. Mr. Santosh Korgaonkar, major,
H.No.359, Tambudki waddo,
Calangute 403516 Goa.

22. Neeta Pramod Korgaonkar
W/o. Pramod Korgaonkar, major,
1/307, Gaura wado, Calangute 403516 Goa.

23. Mrs. Geeta Ramkrishna Pednekar
Alias Anisha Ashok Pilankar,
W/o Ashok Pilankar, Major,
H.No. 4/93, Sankwadi,
Arpora 403516 Goa.

24. Ashok Pilankar, major,
H.No. 4/93, Sankwadi,
Arpora 403516 Goa.

25. Supriya Anant Pilankar
W/o Anant P. Pilankar, major,
510, Sankwadi, Arpora 403516 Goa.

26. Ms. Neeta Ramkrishna Pednekar, major,
House no:10 ward no:10,
Near Govt primary school,
Khorlim, Mapusa 403507 Goa

27. Mr. Shankar alias Sameer Ramkrishna Pednekar, major,
House no:10 ward no:10,
Near govt primary school,
Khorlim 403507 Goa

28. Shivdas alias Rakesh Ramkrishna Pednekar, major,
House no:10 ward no:10,
Near govt primary school,
Khorlim 403507 Goa.

29. Smt. Radhabai Ramkrishna Pednekar.
w/o late Ramkrishna Pednekar, major,
House no:10 ward no:10,
Near Govt primary school,
Khorlim, Mapusa 403507 Goa

30. Gunaji Mahadeve Pednekar, major,
House No:10 ward no:10,
Near Govt primary school,
Khorlim, Mapusa 403507 Goa

31. Smt. Surekha Dilip Narvekar
H.No.142/F, Kasarwado, major,
Khorlim, Mapusa 403507 Goa

32. Dilip alias Jayesh Nagvekar,
H.No.142/F, Kasarwado, major,
Khorlim, Mapusa 403507 Goa

(Above addresses are registered addresses of parties)

To,

The Hon'ble Chief Justice and Companion Judges,

Bombay High Court at Panaji, Goa

THIS HUMBLE PETITION OF THE PETITIONER

MOST RESPECTFULLY SHOWS:

Particulars of the cause against which the Petition is made:-

1. The petitioners have filed this petition in public interest to bring to the notice of this Hon'ble Court and for its intervention, the proposed illegal conversion of tenanted land under Sy.No.3/3 of PTS 161 of Mapusa town from agriculture to commercial (C2) through deliberate fraud, and its eventual development. The Sy.No.3/3 is covered by the Agricultural Tenancy Act, 1964 and the provisions of the Goa Land Use Act, 1991 which prohibit non-agricultural activity on tenanted lands. The plot is now claimed by Boshan Developers Pvt Ltd (Resp.No.7). Further, a large number of conversion sanads have already been issued by the authorities in respect of several adjacent survey numbers (Sy.Nos.3/1 to 3/14, 4/10) related to the other constructions of Boshan Developers Pvt Ltd. Many of these survey nos were also tenanted lands as per official records and their land use was changed by questionable means. The sanads permitting conversion of these plots have been issued without application of mind, some of them on the basis of civil court orders obtained through fraudulent proceedings and collusive statements of erstwhile

owners and tenants. Others have been issued on the basis of questionable sale deeds in violation of the Tenancy Act. Buildings have already come up on these plots. However, no permanent structures have been erected on Sy.No.3/3 although some illegal development activities have taken place. Petitioners seek to restrain Boshan Developers from using the plot for construction activity and pray for return of Sy. No. 3/3 to agricultural use. Petitioners also seek demolition of constructions on tenanted plots in addition to deterrent punishment for such impermissible and unlawful development in order to caution developers that the law must be respected and that violation of the Goa Land Use Act, 1991 will not be countenanced by this Hon'ble Court. Large number of unauthorized structures have also come up on several tenanted plots of Sy.No.2, all related to the activities on Sy.No.3.

2. This challenge by the petitioners is launched on the basis of the petitioners' public right to maintenance of the land use of these lands (for agriculture) as required under the Goa Land Use Act, 1991. Petitioner No.3 is pursuing implementation of the Goa Land Use Act as part of its environment programmes to safeguard agriculture and agricultural land use in the State. Hence this PIL. It has already approached this Hon'ble Court on several occasions in the past decade in connection with conservation of tenanted lands.

3. Petitioners have also filed a companion PIL WP No.58/2019 against the same developer (Resp.No.7) on grounds of absence of critical environmental infrastructure (including Sewage Treatment Plant,

parking, access road and garbage facilities) required under the regulations for its latest project on these lands (Boshan Classic). This Hon'ble Court has been pleased to issue notice on the PIL.

Particulars of the Petitioners

4. Petitioner No.1 is a farmers' association of Bodgeshwar which has objected on ground of tenancy to the conversion of Sy.No.3/3 for development, and on the same ground, to the Town Planning Scheme. Petitioner No.2 is an association registered under the Tenancy Act. Together with petitioner No 3, it filed a PIL in this Hon'ble Court for cancellation of the Town Planning Scheme of Mapusa on the ground of tenancy. Both these associations are extremely disturbed at the alarming rate at which tenanted lands are disappearing in the town of Mapusa and pray for stringent action and punitive damages against those violating the tenancy law and the Goa Land Use Act, 1991.

5. The petitioner No.3 is an environmental NGO that has been working for more than three decades in fighting legal battles to ensure that the environment, ever susceptible to abuse and maltreatment brought about by factors such as influence, corruption and indifference, is safeguarded by the comprehensive laws framed to protect it. Petitioner is based in Goa and all its members are citizens of India. The average annual income of the Petitioner organization is around Rs.6 lakhs. The Petitioner states that there is no civil, criminal or revenue litigation involving the Petitioner organization which has or could have a legal nexus with the issue involved in this PIL.

Registration certificates and resolutions of the petitioner organisations are herein marked and annexed to the petition as **Annexure 1 colly.** Undertaking that the petitioner will disclose the source of information leading to the filing of the PIL is herein marked and annexed at **Annexure 2**.

Particulars of the Respondents

6. Respondent No.1 is the principal functionary for implementation of the Agricultural Tenancy Act, 1964. Respondents Nos.2-4 are authorities for approval of land use and development projects. Resp No. 5 is the State of Goa. Resp.No.6 is the authority before whom mutation proceedings of plot with Sy.No.3/3 of PTS 161 are pending. Respondent No.7 is the developer who has raised buildings on tenanted land. Respondent Nos.8-16 are persons claiming to be owners of some of the plots including Sy.No.3/3, while Respondent Nos.17-32 are tenants as per the record of rights and who have now, in collusion with the other respondents, have denied tenancy status of their lands for promised pecuniary benefits and thereby opted out of tenancy through means that are challenged in this PIL.

7. Except for the respondent Govt authorities, the other respondents are either plaintiffs or respondents, in the specific civil court order under challenge in this PIL, which is judgement and decree of the Civil Court, Mapusa dated 24.9.2008 in RCS No.103/2007/E. Some of them are buyers and others, sellers of tenanted land. In order to enable these lands to escape tenancy status – and the stringent provisions of the Goa Land Use Act, 1991 – various duplicitous and

fraudulent court proceedings were initiated by the respondents in some cases. In other cases, status of some of these lands, in fact, was unsettled and changed even without going to the courts, simply by signing illegal sale deeds in which the respondents purchased the lands from both the erstwhile landlord and the tenant owners.

Declaration and undertaking of the Petitioners:-

8. That the present petition challenges certain civil court orders obtained by the respondents on grounds of deliberate fraud, and on the basis of sale deeds which petitioners submit are illegal. It challenges the conversion sanads granted to the main developer (Boshan Developers) on the basis of the civil courts' orders fraudulently obtained and on the basis of questionable sale deeds. Fraud vitiates all acts. This PIL establishes that a fraud has been committed against the statute, namely, the Agricultural Tenancy Act, 1964.

9. That the entire litigation costs, including the advocate's fee and other charges are being borne by the Petitioners.

10. That a thorough research has been conducted in the matter based on which the grounds are raised in the petition.

11. That to the best of the knowledge of the Petitioners and research done by them the issues raised in this petition were not dealt with or decided in any other petition, and that a similar or identical petition was not filed earlier by them.

12. That the Petitioners have understood that in the course of hearing of this petition the court may require any security to be furnished towards costs or any charges, and the Petitioners shall comply with such requirements.

13. That to the petitioners' knowledge there is no civil or criminal litigation pending with regard to the subject matter of this petition before any other Court. There is an interconnected PIL No.58/2019 already filed against the Resp.No.7 which is presently pending hearing before this Hon'ble Court.

14. Petitioners state that this Hon'ble court has jurisdiction to hear and dispose this matter.

Facts in brief, constituting the cause:

15. Petitioner No. 3, who has prepared this petition with inputs from the other two petitioners, first became aware of tenanted lands in Mapusa being diverted on large scale to non-agricultural use – with tacit approval of the Govt. – when Petitioner No 2 approached it in 2018 regarding a Town Planning Scheme in the Outline Development Plan (ODP) of Mapusa involving largely tenanted lands in Camarkhazan, Bodgeshwar, etc. Together they filed a PIL in this Hon'ble Court challenging the Mapusa ODP on these grounds. The PIL was disposed of in June 2019 when the NGPDA informed this Hon'ble Court that the ODP was being revised. During this period, Petitioner No. 1 had also approached Petitioner No 3 with similar concerns about the agricultural fields around the

Bodgeshwar temple (which also included lands being included in the Town Planning Scheme) and expressed that while people now desired to re-cultivate their lands, they found their properties overrun with garbage, sewage, construction rejects and unauthorized structures as the authorities appeared not to recognise these lands as agricultural fields. The principal large scale encroachment on agricultural lands in the Bodgeshwar area is by Boshan Developers (Resp. No 7). Petitioner No. 3 conducted detailed research into the matter and was shocked to discover that bulk of the plots on which the Resp.No.7 had raised its buildings are tenanted lands and, on this basis, has now filed this petition regarding the misappropriation of these tenanted agricultural lands for commercial development.

16. Petitioners state that the Boshan commercial complex of buildings at Bodgeshwar, Mapusa, commenced in 1999. There are a total of ten buildings on the various plots, some standalone plots, some amalgamated. As far as the petitioner has been able to establish from the approved plans, the complex stands on Survey Nos. 3/1, 3/2, 3/4 upto 3/14 and 4/10. Majority of these plots are tenanted, as per the government record. Survey No.3/3, scheduled for a future project, is also tenanted and approved with C1 status under the Outline Development Plan, but no building has yet been approved on the plot. Petitioners have also discovered that several plots on Sy.No.1, Sy.No.2 and Sy.No.4 of PTS 161 are also tenanted. Some of the lands on Sy.Nos.1 and Sy.No.2, though tenanted, are also shown zoned as C1. At the moment, several plots on Sy.No.2 are

unauthorized structures, hosting the maintenance staff of the Boshan complex, restaurant, hotel, etc. Copy of the ODP of Mapusa (now being revised) showing C1 zoning of these areas is at **Annexure 3**.

17. A detailed map showing tenanted plots either converted or proposed for conversion exclusively related to the Boshan commercial complex is **Annexure 4**. Except for Sy.No.3/3, all other sy nos mentioned in para 15 above have been converted to non-agricultural use and buildings have been erected on them, in explicit violation of the Goa Land Use Act. No building yet stands on Sy.No.3/3, however, some parts of it have been degraded (mud filling, leveling, parking of vehicles, etc.).

18. Based on the information collected by the petitioners, they are providing in the table below, comprehensive details of the concerned lands/projects of Boshan Developers (Resp.No.7) at Bodgeshwar, Mapusa, Goa. The table lists out, in addition to the Survey (Chalta) Nos., the name of the erstwhile landlord, tenant, transactions that led to tenancy being falsely denied, and finally, a) nature of the project which has been completed (and already operating) on these lands; b) projects under construction/completion; and c) plots yet to be converted for purposes of development, though zoning change has already been obtained. Zoning of tenanted agricultural lands as settlement, or commercial, or any other non-agricultural status, is expressly forbidden by the Goa Land Use Act, 1991. The table does not list out structures on Sy.No.2.

Sy No	Area	Erstwhile Landlord	Tenant/Deemed Owner	Details of Settlement	Project
3/1	1450 sm	Braganza/ Braganza	Gurudas Salgaoncar	Uncontested RCS No.140/07/D decided on 22.12.2007	Residential/commercial building completed and in use. Access is shown through tenanted lands
3/2		Gloria D'Souza	Gurudas Salgaoncar	Sale to Ramakant Shetye dated 21.8.2006. Transferred to Boshan on 16.1.2009	
3/3	3294 sm	Pinto/Joshi	Pednekar family	MOU dated 31.5.2007 between Pednekars and Udaybala Joshi and Boshan Developers for Rs.1,15,29,000 (cash and kind). RCS 103/2007/E dated 24.9.2008 Sold to Boshan on 23.2.2012	No project as yet. Thus far, part of plot if filled up with mud, used as an illegal access road for buildings and for parking. However, re-zoning of plot as C1 is allowed.
3/4	419 sm	Ricardo D'Souza	No information on tenancy	Sale deed for Mr and Mrs Dhuri Sale deed from Dhuri to Boshan dated 9.11.2009	Boshan Hotels Completed and in use. Illegal access through tenanted 3/3. Legal 10 metre access does not exist
3/5	375 sm	Freitas Souza Ticlo	Shobavati Kerkar	RCS No.32/2006/F judgement dated 07/03/2006	Residential/commercial bldg D. Completed and in use
3/6	350 sm	Freitas Souza Ticlo	Shobavati Kerkar	RCS No.32/2006/F judgement dated 07/03/2006	
3/7	481 sm	Braganza/ Braganza	Gurudas Salgaoncar	Uncontested RCS No.140/07/D decided on 22.12.2007 Sold to Boshan on 22.10.2008	Boshan Classic Complete but not in use except for one shop. PIL for stay on grant of Occupation Certificate on grounds of missing environmental infrastructure
3/8	1019 sm	Gloria D'Souza	Gurudas Salgaoncar	Sale Deed dated 21.8.2006	

3/9	288 sm	Braganza/Braganza	Gurudas Salgaoncar	Uncontested RCS No.140/07/D decided on 22.12.2007 Sold to Boshan on 22.10.2008	Boshan Classic Complete but not in use except for one shop. PIL for stay on grant of Occupation Certificate on grounds of missing environmental infrastructure
3/10	156 sm	Freitas Souza Ticlo	Shobavati Kerkar	RCS No.32/2006/F judgement dated 07/03/2006	
3/11	156 sm	Ricardo D'Souza	No information on tenancy		
3/12	225 sm	Freitas Souza Ticlo	Shobavati Kerkar	Shetye sale deed dated 5.8.2008 Sold to Boshan on 23.2.2012	
3/13	75 sm	Gloria D'Souza	Gurudas Salgaoncar	Sale Deed dated 21.8.2006	
3/14	37 sm	Braganza/Braganza	Gurudas Salgaoncar	Uncontested RCS No.140/07/D decided on 22.12.2007 Sold to Boshan on 22.10.2008	
4/10	3381 sm	Freitas Souza Ticlo	Shobavati Kerkar	RCS No.32/2006/F judgement dated 07/03/2006	Commercial Bldg "A" plus residential bldgs B1-B4 and C all completed and in use

19. The urgent reliefs sought in this petition are primarily in respect of Sy.No.3/3 of PTS 161 where no approval for development till date has been issued. The zoning of the plot, however, has been changed from C2 to C1 in the Mapusa Outline Development Plan, though it remains tenanted land. The Mapusa ODP is on hold, under revision, after petition was filed by the Petitioner No.2 and Goa Foundation challenging the diversion of some 18 lakh sq.mts of mostly tenanted agricultural land to a town planning scheme. Thus far, petitioners state that to the best of their knowledge, no conversion sanad has been issued in respect of Sy.No.3/3. However, zoning as C1 category needs to be quashed. Similarly C1 zoning of tenanted plots of Sy.Nos.1, 2 and 4 of PTS 161 also needs to be quashed.

Sy.No.3/3 of PTS 161

20. Sy.No.3/3 is recorded in land records as belonging to the Pednekar family (Resp.Nos.17-32) who obtained its rights to it under the Goa Agricultural Tenancy Act. The manner in which the tenancy status of this plot was sought to be extinguished in order to allow development (which is yet to take place) is a classic instance of how developers lure tenants into circumventing the law. Sy.No.3/3 of PTS No.161 of Mapusa and Sy.No. 6/1 of PTS No.170 under the common name of "Segulacho Gundo" or "Cuntatulim Buim" were originally owned by (late) Constantino Salvador Pinto. The plots run on the northern and southern sides of the Mapusa-Calangute road, opposite Bodgeshwar Temple. Late Ramakrishna G Pednekar was the tenant cultivator of both properties. This position is not disputed and was readily admitted in writing by Mr Constantino Pinto himself in an application filed by him under Section 20 of the Tenancy Act, 1964 on 9.5.1972 for resumption of half the property for self-cultivation.

21. The resumption application was challenged by Mr Pednekar. The Mamlatdar of Bardez dismissed the application on 1.12.1975. Mr Pinto appealed this order before the Dy. Collector who, by an order dated 16.8.1976, allowed the appeal. This order for resumption was in turn appealed by Mr Pednekar, first, before the Administrative Tribunal, which dismissed the appeal on 15.12.1977; and thereafter, before the Judicial Commissioner who also dismissed Pednekar's appeal on 15.6.1981. Petitioners crave leave to produce a

copy of the judgement of the Judicial Commissioner, if and when required in these proceedings.

22. Thereafter, Mr Pinto filed an execution application which was never pursued or decided, perhaps in view of the appeals filed in the Supreme Court relating to the validity of the 5th Amendment (Land to the Tiller Act) to the Agricultural Tenancy Act. In 1990, the Hon'ble Apex Court allowed the appeal and upheld the provisions of the Tenancy Act and the Fifth Amendment. It also held that the right of resumption available to landlords under Chapter III had never been brought into force in the state of Goa, and had in fact been deleted from the Act by the 1976 Amendment (AIR 1990 SC 1771). In 1991, the Goa Land Use Act was brought into force w.e.f. 2-11-1990. Agricultural tenanted land could no longer be diverted to non-agricultural use, except as expressly permitted.

23. Thereafter, in 1994 and 1996, Ramakrishna Pednekar filed two applications as deemed owner for purchase certificates from the Mamlatdar under 18C of the Tenancy Act. The purchase certificate for the plot No.6/1 of Sy.No.170 (not concerned in this PIL) was issued, after notice and proceedings, on 20.6.1994 after Mr Pednekar had paid the purchase price of Rs.4435. Petitioners state that the field appears to be cultivated by the Pednekar family even today. Copy of the purchase certificate dated 20.6.1994 is at **Annexure 5**.

24. In relation to Sy.No.3/3 of PTS No.161 – subject matter of this PIL – Pednekar was certified as the purchaser of the property and issued a purchase certificate by order of the Mamlatdar of Bardez after he had paid the purchase price of Rs.1,318 on 6.6.1996 and obtained the Purchase Certificate on 27.6.1996. This order was then confirmed by an order dated 24.7.1996 passed by the Inspector of Surveys and Land Records, City Survey, Mapusa under Rule 6(1) of the Goa Land Revenue Code. Thereafter, the ISLR incorporated Pednekar's name in the record of rights as sole occupant, and the plot being part of Mapusa town, the name appeared thus in the D Form of the Municipality where it rests even today in the name of his heirs. Copy of the purchase certificate dated 27.6.1996, D Form, order of the ISLR dated 24.7.1996 with survey map are found at **Annexure 6 colly** to this petition. (Petitioners have also obtained similar documents for Sy.No.6/1 of PTS 170 and these can be produced as and when required. If the Sy.No.6/1 of PTS 170 is mentioned in this petition, it is only to show that the lands on both sides of the road were tenanted lands, surveyed and recorded as tenanted, issued purchase certificates, and monies were paid into the government treasury as required.) To the best knowledge of the petitioners, the purchase certificate of Sy.No.3/3 remains valid till date and has not been set aside in any proceedings.

25. Desirous of obtaining Sy.No.3/3 for expansion of its commercial project, Boshan Developers (Respondent No.7) appears to have met the Pednekar family and convinced them to part illegally with

Sy.No.3/3 in exchange for monetary compensation plus shop space in the commercial development that would come up on the land, once permissions were obtained. Accordingly, an MOU was signed on 31.5.2007 between the respondents Nos.8-16 (who claimed to be owners of the property through a 1971 sale deed), and Respondents Nos.17-32 with Boshan Developers (Resp.No.7) shown as the "Fourth party" to the MOU. Copy of the MOU – which was found by the petitioners annexed to a Regular Civil Suit filed by Nirmala Pednekar in 2011 – is **Annexure 7**. The MOU admits that for a sum of Rs.1,15,29,000 (Rupees One Crore, Fifteen Lakhs and Twenty Nine Thousand only), the respondents Nos.17-32 agreed to deny their tenancy rights and would submit that they were never tenants of the said plot. The MOU would falsely claim that Sy.No.3/3 was actually part of a larger area covered by another, older sale deed, purchased from one Jose Fausto Santana Fernandes in 1971! The 1971 sale deed, however, deals with an area by local name "Perem" or "Novot." It only mentions boundaries of the plot being purchased which do not tally with present boundaries. It does not mention Sy.No.3/3. Petitioners crave leave to produce a copy of the 1971 sale deed, if and when required. For signing the MOU with the Resp.Nos.8-16, the MOU records that Boshan Developers would make the necessary payments promised in installments. Nearly half the pledged money would be in the form of 4 shops admeasuring 128 sq mts. In return, the Pednekars agreed to a negative declaration before the Civil Court within one month. In fact, the second installment of Rs.10 lakhs would be made "on filing their reply and

written statement therein by admitting the claim of party of Third Part [Udaybala Joshi & ors] in civil suit to be filed by the party of the Third part for partition, declaration, injunction and correction of records of rights in respect of the said property."

26. As part of the deal, the Pednekar family members (Resp.Nos.17-32) signed POAs giving authority to Mrs Pednekar (Resp.No.29) to conduct the legal proceedings proposed in the MOU. Mrs Pednekar, together with some of her family members, then signed a POA handing over their rights to be represented in legal proceedings to Amir Gaitonde, the owner of Boshan Developers Pvt Ltd (Resp.No.7). Petitioner is annexing at **Annexure 8**, copy of the Power of Attorney dated 31.5.2007 by which Mrs Radhabhai Pednekar and family members handed over the power to appear on their behalf in civil court – and to make statements – to Amir Gaitonde.

27. Accordingly, a Regular Civil Suit (RCS) 103/2007/E was duly filed in June 2007 by the Respondents Nos.8-16 claiming to be the owners of the property. The RCS was instituted under the signature of Amir Gaitonde acting under a POA issued by the Resp.Nos.8-16 Thus, Mr. Amir Gaitonde (owner of Boshan Developers) was holding the POA both from the Plaintiffs (Resp.Nos.8-16) and the Defendants (the tenants, Resps Nos.17-32). Neither the MOU nor the purchase certificate of the said plot was produced in the civil court. The Defendants' written statement prepared by the POA admitted the claims of the Plaintiffs. On the basis of the fact that the

respondent tenants were not contesting the claims of the plaintiffs, judgement and decree were summarily issued in favour of the plaintiffs by an order dated 24.9.2008. Copy of the judgement and decree which is challenged via this PIL is annexed at **Annexure 9**. The judgement is under challenge in this petition on grounds that it was obtained by fraud committed by all the parties to the suit, and hence, the respondents committed a fraud on the statute. For this reason, all parties to the transaction have been made respondents in this PIL. It is clear that the proceedings before the Civil Court were wholly orchestrated and managed by the developer, and the monies as a compensation for wrong doing, and filing wrong statements, would also come from him. Since the judgement and decree dated 24.9.2008 were obtained by fraud, petitioners pray that this Court invoke its inherent, extraordinary, revisional jurisdiction to quash and set them aside.

28. Petitioners draw to the notice of this Hon'ble Court the circular dated 24.12.1994 issued by the Government of Goa precisely to prevent such convenient arrangements between landlord and tenants to jointly remove the properties from the purview of the Agricultural Tenancy Act and Goa Land Use Act. The circular states:

> "...it is hereby advised that under no circumstances can a tenant who is the deemed owner of the land under the Act, 1964 revert the land back to the landlord but the land shall be disposed off in the manner provided in sub-section (2) of section 18 J of the said Act 1964 in circumstances specified in sub-section (1) of

said section 18 J of the Act, 1964. Hence, a compromise decree leading to deletion of the name of the tenant from Forms I & XIV is inconsistent with the provisions of law. Moreover, by virtue of section 2 of the Goa Land Use (Regulation) Act, 1991 (Act 3 of 1991), no land which is vested in a tenant under the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) shall be used or allowed to be used for any purpose other than agriculture."

A copy of the circular issued by the Revenue Department dated 24.12.1994 is at **Annexure 10**.

29. Despite such warning notices, compromises between landlords and tenants continue to prevail. It is seen that on 20.04.2011, Resps.Nos.8-16 filed application No.211284 for mutation of the D Form relating to Sy.No.3/3, the ISLR sent notices to all parties, including the heirs of late Constantino Salvador Pinto and the Pednekars. The Pednekars contested the application for mutation, but were denied relief because of the statements made by them (or on their behalf) before the Civil Court in 2007. The ISLR disallowed the objections by his order dated 17.06.2014, allowing the mutation and permitting the names of the Joshi family to be brought on record as owners of the plot. Copy of this order dated 17.06.2014 is enclosed herewith as **Annexure 11.**

30. Subsequently, in March 2019, it appears that M/s Boshan Developers Pvt Ltd (Resp No. 7) has filed an application for mutation (Mutation No. 212460) with respect to the same property –

presumably to have the company's name inserted and the tenants' names removed from the record. Notices have been issued to all parties and the matter is pending before the court of the ISLR, Mapusa. Considering the facts related in this PIL, this Hon'ble Court ought to stay the proceedings before the ISLR at this stage, pending final disposal of this PIL, for if the proceedings conclude, the names of the tenants will be eliminated in the computer copies of the revenue department, and the land will no longer show as falling within the purview of the Agricultural Tenancy Act. It is for this reason that the ISLR has also been made a party respondent in this PIL.

31. In 2014, a PIL was filed before this Hon'ble Court (PIL W.P. No. 12/2015, *Vijay Laxman Bhike v. State of Goa* and others) alleging that the land surveyed under Sy.No.3/3 being tenanted land was being used for development associated with Boshan projects. The Boshan Developers filed an affidavit inter alia stating that no building / construction activity was being undertaken in the suit property. Counsel for the Company further stated that in case the Company decided to use the property for any purpose, such activity would be carried out by complying with the due process of law. Accepting these statements and assurances, this Hon'ble Court disposed of the petition on 23.7.2015 keeping all contentions of both parties on merits, open. Copy of the said order dated 23.07.2015 is at **Annexure 12**.

32. In 2015, when the ODP of Mapusa was proposed for revision, the POA (Amir Gaitonde) on behalf of one of the "owners" of Sy.No.3/3 (Siddarth D. Joshi/Resp.No.15) wrote a simple letter – the letter does not have even a date – to the PDA (entered into PDA's inward on 17.7.2015), asking for Sy.No.3/3 to be zoned "from C2 to C1." Copy of the letter is at **Annexure 13**. This was granted without any hesitation by the PDA and the plot was accordingly notified with C1 zone status in the ODP of Mapusa dated 26.12.2016. (As stated earlier, that ODP has now once again gone for revision after a PIL was filed by several petitioners, including the Goa Foundation, on grounds of it being in violation of the Goa Land Use Act, 1991.) However, the zoning of the plot as C1 remains and is impugned in this PIL on the grounds made out herein.

33. Despite the solemn assurances made to this Hon'ble Court by the Boshan Developers in PIL WP 12/2015, referred to in para 30 above, the Company has constructed a 6 meter wide kutchha road on Sy.No.3/3 which is shown as the legally required access to the residential/commercial building raised on Sy.No.3/1 and 3/2. Without this access (illegally showing) through Sy.No.3/3, the residential/commercial building could never have been granted approvals since it has no other access. The PDA falsely claimed in its site visit report that a "ten metre" access road to the plot exists. However, even the 6 metre kuccha road at site today is not at all as per the alignment shown in the approved plan. Copy of the PDA inspection report is at **Annexure 14**.

34. Thus, despite the civil court's order of 24.9.2008 declaring the Resp.Nos.8-16 as the owners of Sy.No.3/3, Amir Gaitonde of Boshan Developers Pvt needed to produce NOC from the original tenant-owners to gain the approvals. Petitioner has learnt that the NOC is another fraud, since it has been issued on behalf of the tenant owner ostensibly without her knowledge and consent, solely on the basis of the Power of Attorney given by her to Amir Gaitonde in 2007. However, in November 2010 itself, the Pednekar family members had withdrawn the POA given by them to their mother. Both the letter and the NOC are – conveniently – undated. Copies of the letter from the POA enclosing the NOC found in the PDA files and of the public notice withdrawing the POA, are at **Annexure 15 colly.**

35. The plot with Sy.Nos.3/3 now hosts not only the 6 metre kutccha road, this road connects to Boshan Classic and Boshan Hotels and not with the residential/commercial building standing on Sy. No.3/1 and 3/2 (as approved). The plot No.3/3 itself is the recipient of the wastes and building materials of the Boshan Classic project despite the undertaking given to this Hon'ble Court vide its order dated 23.07.2015. The plot is also used for parking of vehicles of all three buildings.

36. The above facts are in relation only to Sy.No.3/3. Petitioners also wish to show this Hon'ble Court briefly, the widespread conversion of other plots from tenanted agricultural lands to commercial zone

obtained by the same developer (Resp.No.7) on the same Sy.No.3, but on other subdivisions.

Tenancy of plots with Sy Nos 2/8, Sy.Nos.3/5, 3/6, Sy. No. 3/10 and 12 and 4/10 of PTS No. 161

37. With regards to Sy Nos 2/8, Sy.Nos.3/5, 3/6, Sy. No. 3/10 and 12 and 4/10 of PTS No. 161, a RCS No.32/2006/F was filed before the Court of the Civil Judge, Junior Division at Mapusa by Smt Udaybala Joshi (Resp.No.8) and nine other family members against Ms. Anastasia Freitas Souza Ticlo (erstwhile landlord), Nutan Nagesh Kerkar, and Maya Nagesh Kerkar (tenants, in possession). Negative declaration was obtained in respect of Sr. Nos. 2/8 of PTS No. 161, Sy.No. 3/5, 3/6, Sy. No. 3/10 and 12 and 4/10 of PTS No. 161. In the said suit, Mr. Amir Gaitonde is shown as the brother of Plaintiff No.1 (Mrs Udaybala Joshi) in the suit. Resolution of the matter is by the defendants admitting the claim of the Plaintiffs. The suit was decreed by an order dated 7.3.2006, within 1 month and 2 days of filing. The order and decree are impugned in this PIL, also on grounds of fraud, as the Tenancy Act, 1964 does not permit such transactions. Presently, there are buildings standing on these plots duly approved by the authorities. Copy of the judgement dated 7.3.2006 in RCS No.32/2006/F is with the petitioners and they crave leave to produce it, if and when required.

Tenancy of plots with Sy.Nos. 3/1, 3/2, 3/7, 3/8, 3/9, 3/13, and 3/14 all of PTS No.161

38. This brings us to the third set of tenanted lands knocked out of their tenancy status for Boshan projects: Sy. Nos. 3/1, 3/2, 3/7, 3/8, 3/9, 3/13, and 3/14 all of PTS No.161. The tenant on all these lands, as per the D Form, is Gurudas Arjun Salgaonkar and Mrs Gitesha Salgaonkar. Salgaonkar is shown as tenant on all seven plots, adjoining or close to each other, with three plots associated with one erstwhile landowner (Gloria D'Souza) and 4 plots associated with another (Braganza). In the first case, a different mechanism was used for negating tenancy: the tenant – together with the erstwhile landowner – entered into a sale deed, jointly selling the land to a third party who then sold the property to Boshan Developers (presumably to provide for some distance). In the sale deed transaction, involving Sy.Nos.3/2, 3/8 and 3/13, as per the impugned sale deed dated 21.8.2006, the owners are shown as Gloria De Souza and her husband, Amiano. The recorded tenant Gurudas Salgaoncar appears as a "confirming party". His interest in the transaction is that he is a "trespasser". However, being the tenant, he was paid Rs.13 lakhs as per the sale deed to surrender his tenancy claim. The erstwhile landowner, however, received a lesser amount of Rs.12 lakhs. Copy of the sale deed is with the petitioners and they crave leave to produce it, if and when required, in these proceedings.

39. The sale deed enabled all to pretend that the land was never tenanted. However, the sale deed is legally invalid because tenanted

land cannot be sold without the consent of the Mamlatdar. No such consent has been obtained in this case. None is mentioned in the sale deed. The sale also violates the circular dated 24.12.1994 (Annexure 10).

40. In the second set of tenanted lands of Gurudas Salgaoncar (Sy.Nos.3/1, 3/7, 3/9 and 3/14), a RCS No.140/07/D is filed for removal of the tenant. As usual, Gurudas Salgaoncar does not contest. The suit is decreed in favour of the Braganzas on 22.12.2007, who then sell the plot (except for Sy.No.3/1) to Boshan Developers on 22.12.2008. Copy of the order dated 22.12.2007 is also with petitioners.

Tenancy of plots Sy.Nos. 1, 2 and 4 of PTS No.161 of Mapusa

41. Petitioners are providing list of tenanted lands showing tenants and landowner on Sy.Nos.1, 2 and 4 of PTS No.161 at **Annexure 16** as taken from the land records. Sy.Nos.1, 2 and 4 surround Sy.No.3 and its subdivisions. As can be seen, some 80% of the lands surrounding Sy.No.3/3 are also tenanted. Already Sy.No.2/8 has been taken over by the same respondents. And several plots under Sy.No.1 and Sy.No.2 are already converted to C1 in the ODP. Several structures have been raised on Sy.No.2/7 – 2/14 (including plots belonging to government). Petitioners have no knowledge whether these constructions – which house the serving staff of the various buildings of Boshan Developers – are authorized under the laws in force.

42. Conversion sanads for several of the tenanted plots on which Boshan Classic now stands have been issued in violation of the Goa Land Use Act. Copies of 9 impugned sanads are at **Annexure 17 colly** to this PIL. They convert Sy.Nos 3/5, 3/6, 3/7, 3/8, 3/9, 3/10, 3/12, 3/13 and 3/14 from tenanted agricultural land to non-agricultural use. In only one of these applications for conversion sanad, did the Deputy Collector raise objection that the plot (3/14) showed record of tenancy and therefore attracted the directives of this Hon'ble Court issued in WP No.71/2000 and 168/2000. However, the sanad was eventually issued. Copy of the order of the Deputy Collector dated 26/05/2015 rejecting application for sanad is at **Annexure 18** Petitioners pray that all these conversion sanads cannot stand in view of the facts and law stated in the PIL, and therefore need to be quashed and set aside.

43. In these cases of tenancy now brought before this Hon'ble Court, the petitioners make clear and declare that they are not fighting on behalf of individual tenants or their rights or even for resumption of the lands they have surrendered in exchange for money. The petition is not filed to restore tenancy of any tenant involved in these proceedings. This is not a proceeding under the Tenancy Act. The sole purpose of this PIL is implementation of the Goa Land Use Act, 1991 on the basis of the public right that is available to citizens as a consequence of the Act itself. The PIL simply demands that these lands be reverted to agriculture. For these reasons, the Mamlatdar of Mapusa has been made the principal Respondent in the PIL.

44. Petitioners are entitled to claim restoration of Sy.No.3/3 to agriculture in the ODP of Mapusa and the cancellation of its C1 status. Similarly with the numerous plots on Sy.Nos.1, 2 and 4. In the case of the Sy.Nos.4/10 and 3/1 to 3/14 (except 3/3) since there is now a 7 storey building (Boshan Classic) or other buildings (A, B1-B4, C & D, and Boshan Hotels) standing on them, petitioners submit they would have to be made the subject matter of an inquiry as to whether the records show they were tenanted as of the date of coming into force of the Goa Land Use Act, 1991. Thus, this Hon'ble Court may first decide to order an inquiry into the allegations of tenancy status made by the petitioners, based on the documents with the petitioners. If these allegations are found to be correct, this Hon'ble Court may direct demolition of the buildings raised. This Hon'ble Court may also consider levy of harsh, deterrent costs for violation of the Tenancy Act and the Goa Land Use Act against the Respondent No.7 so that other persons involved – or wanting to be involved – in such dubious practices are dissuaded from doing so. Penalty for irrevocable destruction of land covered under the Goa Land Use Act 1991 should be computed as the present commercial rate per sq mt prevailing in Mapusa, which is around Rs.40,000, in addition to demolition of the buildings.

45. The petitioners state that other cases of tenanted fields being taken over for development in Mapusa town through fraudulent and exploitative deals between tenants, developers and regulatory authorities have come to the notice of petitioners. Hence deterrent

action is necessary, if all such agricultural lands are not to disappear permanently.

46. Petitioners state that the record of tenancy of all lands, as of 1991, is with the Resp.No.1. In fact, in WP No.71/2000, this Hon'ble Court directed the revenue authorities to compile a detailed report of all tenancies found in the state which had gone for illegal conversion, pursuant to the Tenancy Act, with a view to enforce the Goa Land Use Act. The detailed report prepared by both South and North Goa Collectors on this limited issue was placed before this Court through an affidavit filed by the Revenue Secretary himself.

47. When it became necessary to access the said report for the purposes of enforcing tenancy (and statutory agricultural land use in which the petitioners have a sustained interest), petitioners found that the copies of the report filed by the Revenue Secretary before the High Court in that proceeding (Writ Petition No.71/2000) were missing from this Hon'ble Court's records of the petition when they took inspection of them. According to the clerk, the copy, if any, had been destroyed. Thereafter, an attempt to get a copy under the RTI Act from the government's revenue department has also failed. The report cannot be located.

48. Petitioners submit that it is important in the interests of the progressive legislation and also for purpose of the protection of the environmental land use of the state, and in the interests of intergenerational equity, that such a report, if compiled, should be reproduced before this Hon'ble Court. Further, it is important to

upload to a site all remaining tenanted lands so that in future no one will be able to deal with these plots except in terms of bona fide agricultural use. Petitioners submit that there is a new interest in agriculture among the younger generation and this interest needs to be conserved and promoted. Buildings do not feed people, agricultural land does.

Grounds:

49. Petitioners are therefore approaching this Hon'ble Court on the following grounds among others:

a) Lands obtained under the Tenancy Act cannot be disposed of or sold without the consent of the Mamlatdar. Even if such an order is obtained, the new owner must continue the business of agriculture on the said land. In the case of Sy.No.3/3, the Mamlatdar was kept out of the legal proceedings. In the case of other tenanted plots, sale deeds of land affected by tenancy were made without his approval. All such are illegal and fraudulent acts, and cannot be condoned. Fraud vitiates all acts. Such acts need to be brought to a halt.

b) Petitioners submit that in fact, this Court has already declared in several judgements in tenancy matters that such orders of civil courts in tenancy matters are *non est* due to want of jurisdiction. Nevertheless, the process of cheating the civil courts continues, as the facts surrounding this present case amply demonstrate. The denial of tenancy for money was precisely the reason the Goa

Land Use Act, 1991 was enacted by the Goa Assembly. The Civil Court was required to find out for itself how the record of rights established the name and right of the tenant, and it was expected to ask the respondents to rebut the evidence provided in the record of rights. However, nothing of the kind happened. The civil court went ahead and allowed the suit to declare the names of the tenants on the record of rights as erroneous on the basis of statements fraudulently made through mutual agreement between tenants and respondents. What has therefore unmistakably emerged is a fraud by respondents on the statute. No effort has been made to likewise cancel the purchase certificate in the possession of the tenants. As stated earlier, the plot surveyed under 6/1 of PTS No.170 is, in fact, still in the possession of the Respondents (17-32).

c) The Collector was duty bound to ensure that the lands for which conversion sanads were issued by his office were not tenanted as of November 1990 and that the conversion sanads did not contravene the provisions of the Goa Land Use Act, 1991. The Collector (or his representatives) have a duty cast on them to investigate how a name of a tenant appears in the record of rights, since this is the work of government and not the individual concerned. By not regarding the fact of tenancy, the Collector disowns and mocks the work and credibility of his own government and administration. As per law, it is presumed that the record of rights is correct, unless rebutted. Without asking for

a rebuttal, but proceeding straight to conversion sanad is unacceptable conduct on behalf of such functionaries. By their negligence, the Goa Land Use Act is not implemented, leading to undesirable change of land use from sustainable agriculture to unsustainable real estate.

d) All the conversion sanads granted for Sy.Nos.3/5, 3/6, 3/7, 3/8, 3/9, 3/10, 3/12, 3/13 and 3/14 need to be quashed and set aside. Petitioners do not have the conversion sanads for Sy.Nos.3/1, 3/2 and 4/10. However, these need to be set aside on the same grounds.

e) As can be seen from the table included in para 17 of this PIL, there has been a consistent and overarching reliance on fraud to bypass the Goa Land Use Act, 1991, obtain conversion sanads, development permissions and other approvals not permitted by law. The proceedings before the civil court were settled by the tenants and so-called landowners by means of an illegal MOU. Later, this land was sold by the Respondent Nos.8-16 to the Resp.No.7 which is owned by the brother of the Respondent No.8. Civil Court was provided with a *fait accompli*, but such settlement of tenancy is not allowed by law and constitutes deliberate fraud. Civil Courts have no jurisdiction in tenancy matters. The MOU establishes that the civil court proceedings were a fraud played on the civil court. Thus the judgement and decree dated 24.9.2008 are liable to be quashed. Only deterrent punishment may bring such egregious cases of undermining

progressive legislation to a terminus. Otherwise, the exercises will continue.

f) The Goa Land Use Act, 1991 explicitly forbids the application of provisions of the Town and Country Planning Act to lands found to be tenanted under the Tenancy Act. Hence all re-zoning of tenanted agricultural plots as C1 or settlement are illegal and liable to be quashed and set aside. Certainly no constructions that change the nature of the land from agriculture to other uses are permitted.

g) Any other grounds that may be urged by the petitioners at the time of hearing of the PIL.

Source of information

50. The information gathered by this petitioner is based on RTI applications to the offices of the Respondent Authorities and from the records available in various court proceedings. Copy of the MOU is found in the civil court proceedings filed in 2011 by one Nirmala Pednekar challenging the decision of the civil court on grounds of misjoinder of parties.

Nature of the injury caused / apprehended

51. Irreversible damage has been caused to the agricultural lands surveyed under PTS 161, chalta numbers 3/1 to 3/14 and Sy.No.4/10 of PTS 161 and Sy.No.2 of PTS 161. One large plot (Sy.No.3/3) can still be protected from the prospect of irreversible destruction. It has already been partly damaged, however, that damage is reversible. If

the Respondents are not stopped right now, this large tract of land will also go the same way, despite the prohibition of the Goa Land Use Act, 1991. So will the many tenanted plots on Sy.Nos.1, 2 and 4 as well. Half the tenanted plots of Sy.No.2 have already been buried under constructions.

Any representation etc. made:-

52. Complaints and representations were made by this petitioner to various authorities, and are listed as documents in this PIL. Hereto annexed and marked **Annexure 18 colly** are copies of the letters dated 20.9.2018, 26.9.2018 and 11.6.2019 sent to the Respondents 1 and 3, consistently drawing their attention to the fact of tenancy.

Delay, if any, in filing the petition and explanation thereof:-

53. This petitioner has approached the Hon'ble Court as soon as possible after building a comprehensive case to present before it, and for this reason, there has been no delay in filing of this petition once it became apparent that fraud had been committed. Sy.No.3/3 was re-zoned only in the most recent ODP notified in December 2016. Since no construction has yet commenced, the PIL is moved in time. The petitioners are in any case not praying for demolition of buildings constructed on tenanted lands unless an inquiry is conducted by appropriate body or officer into the issue of whether these plots were tenanted as per the records as of November 1990. Further, the petitioners have alleged and provided compelling evidence of fraud. Fraud unravels all acts and most frauds come to light after the events

in which they are involved have been completed. Besides, it was required to make research in different court proceedings for a number of judgements including the MOU, some of them going back to 2006 and earlier.

Documents Relied upon:-

54. The documents enlisted as **Exhibits 3-19** hereinabove.

PRAYERS:

55. The Petitioner is therefore approaching this Hon'ble Court for the following reliefs, among others:

a) For an order to quash and set aside the order and decree of the civil court dated 24.9.2008 in RCS No.103/2007/E;

b) For an order quashing the zoning of Sy.Nos.1, 2 and 3/3 as C1 zone in the Mapusa Outline Development Plan and restoring these to agriculture status;

c) For an order directing the Mamlatdar of Mapusa and Resp.No.7 to clear out all the obstacles and wastes, including illegal road created on Sy.No.3/3 and to ensure it is returned to agriculture;

d) For an order quashing and setting aside the mutation order of the ISLR dated 17.06.2014 and any subsequent orders;

e) For an order for demolition of any structures on tenanted lands.

f) For costs of this petition;

g) Such other reliefs this Hon'ble Court deems fit in the facts and circumstances of this case.

Interim Reliefs:

h) Pending hearing and final disposal of this petition, Respondents Nos. 2, 3, 4 and 7 be restrained from granting any approval for construction or raising any project on Sy.No.3/3 of PTS No.161 of Mapusa and on tenanted plots on Sy.Nos.1, 2 and 4.

i) Pending hearing and final disposal of this petition, for an order directing the Resp.No.1 to ensure immediate closure of the illegal road constructed through Survey No.3/3 together with removal of mud and wastes dumped therein and to demarcate the plot;

j) Pending hearing and final disposal of this petition, for an order staying the mutation proceedings No.212460 before the ISLR;

k) Pending hearing and final disposal of this petition, for an order directing an inquiry by a competent officer to examine whether the impugned survey nos. 4/10, 3/1, 3/2, 3/3, 3/5, 3/6, 3/7, 3/8, 3/9, 3/10, 3/12, 3/13 and 3/14 and subdivisions on Sy.Nos on 1 and 2 are tenanted as per the record as of 2 November 1990.

l) Pending hearing and final disposal of this petition, for an order directing the Mamlatdar (Resp.No.1) to complete the survey of these lands and other tenanted agricultural lands within the jurisdiction of Mapusa town as per the Tenancy Rules, including issue of notice and hearings for grant of purchase certificates

within time-bound period, and to produce a report of status of compliance with the Tenancy Act and the Goa Land Use Act;

m) For ad-interim reliefs in terms of prayer (h) and (j);

Caveat:-

56. No caveat application has been received by the petitioners.

Place: Panaji, Goa

Dated: 04.11.2019

Petitioner No. 1

Petitioner No. 2

Petitioner No. 3

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. /2019

The Bodgeshwar Shetkari Sangh & Ors)… Petitioners

v/s

The Mamlatdar of Bardez & Ors)… Respondents

AFFIDAVIT IN SUPPORT OF THE PETITION

I, Dr Claude Alvares, Secretary of the Petitioner No.3 organisation, do hereby solemnly affirm and declare as under:-

1. I have today filed a writ petition together with Petitioners No. 1&2 in public interest for the reliefs sought therein.

2. I state that there is no personal gain, private motive or oblique reason in filing the PIL.

3. The petitioner sare ready to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous considerations or that it lacks *bona fides*.

4. The petitioners shall disclose the source of its information, leading to the filing of the PIL, if and when called upon by the Court, to do so.

5. I solemnly declare and say that what has been stated in paras 1(p), 2(p), 3-7, 8(p), 9-18, 19(p), 20-24, 25(p), 26, 27(p), 28, 29, 30(p), 31-33, 34(p), 35, 36, 37(p), 38, 39(p), 40(p), 41(p), 42(p), 43(p), 46(p), 47, 50, 51(p), 52, 53(p), 54 and 56 of the accompanying petition are in the nature of facts which are true to my own knowledge I believe the same to be true and the contents of paras 1(p), 2(p), 8(p), 19(p), 25(p), 27(p), 30(p), 34(p), 37(p), 39(p), 40(p), 41(p), 42(p), 43(p), 44, 45, 46(p), 48, 49, 51(p), 53(p) and 55 are my submissions, made on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom.

6. I say that the documents annexed are true copies of their originals.

Solemnly affirmed at Panaji

this the 4th day of November 2019 Deponent